IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 24TH APRIL 2007 / 4TH VAISAKHA 1929

WP(C).No. 13716 of 2007(G)

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PETITIONER:

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K.S.ANWAR, S/O.K.A.SAYED MUHAMMED,
RAMSA MANZIL,KIZHAKKEKKARA,VAZHAKKALA.

BY ADV. SRI.BABU CHERUKARA

RESPONDENTS:

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1. THE INSPECTING ASSISTANT COMMISSIONER,
COMMERCIAL TAXES,ERNAKULAM,COCHIN-30.

2. THE ASSITANT COMMISSIONER,
(WORKS CONTRACT), O/O. THE DEPUTY COMMISSIONER,
COMMERCIAL TAXES,ERNAKULAM.

3. THE DEPUTY COMMISSIONER (APPEALS), SALES
TAX COMPLEX,COCHIN-15.

BY GOVT. PLEADER SRI.R.SANDESH RAJA.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 24/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**S. SIRI JAGAN, J.**

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**WP(C) No. 13716 OF 2007**

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**Dated this the 24h day of April, 2007**

**J U D G M E N T**

The petitioner is a civil contractor who undertook certain work for the Corporation of Cochin. In the year 2003-04, the petitioner could not execute any work. In spite of that, by Ext.P1 order of assessment, the petitioner has been assessed to tax under the Kerala General Sales Tax Act by Ext.P1 order assessing a total tax of Rs.1,28,800/- with interest therein. The petitioner filed Ext.P3 appeal along with Ext.P4 stay application on 21.4.2007. The petitioner is now aggrieved by Ext.P6 revenue recovery notice dated 28.3.2007 issued in the mean while. The petitioner submits that Ext.P1 order was passed without sufficient opportunity to present his case before the assessing authority and if he was given sufficient opportunity, he could have satisfied the assessing authority that no tax was due from the petitioner since all sales tax due from him was deducted at source itself by

the principal employer. In the above circumstances, the petitioner seeks a stay of recovery of disputed tax as per Ext.P1 till disposal of Ext.P3 appeal.

2. Having heard learned Counsel for the petitioner as also the learned Government Pleader, I dispose of this writ petition directing the third respondent to consider and pass orders on Ext.P4 stay application as expeditiously as possible. Till disposal of Ext.P4 stay application, further proceedings for recovery of the disputed tax as per Ext.P1 as evidenced by Ext.P6 shall be kept in abeyance.

**sd/-**
**S. SIRI JAGAN,**
**Judge**

Mbs/

-True Copy-

P.A.to Judge

**S.SIRI JAGAN, J**

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W.P.(C) NO. OF 2001

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J U D G M E N T

DATED:13-02-2007